

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SENATE BILL 859

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Richard M. Romero

AN ACT

RELATING TO MORTGAGES; REQUIRING LICENSURE AND EDUCATIONAL
REQUIREMENTS FOR RESIDENTIAL MORTGAGE LOAN OFFICERS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of the Mortgage Loan Company
and Loan Broker Act is enacted to read:

"[NEW MATERIAL]"residential mortgage loan officer" means
an individual who, for compensation or gain, takes or receives
a mortgage application, assembles information, and prepares
paperwork, and documentation necessary for obtaining a
residential mortgage loan, or arranges for a conditional
mortgage loan commitment between a borrower and a lender, or
arranges for a residential loan commitment from a lender.
Residential mortgage loan officer may mean an employee who
solicits financial and mortgage information from the public for

underscored material = new
[bracketed material] = delete

underscored material = new
[bracketed material] = delete

1 sale to another residential mortgage broker.

2 principal mortgage owner" means the owner, or managing general
3 partner, or responsible individual, or any Officer, or stock
4 holder, who holds themselves out to be the party accountable
5 for residential mortgage loan originations or branch mortgage
6 operations, within the state, and/or the person in direct
7 management of residential mortgage loan origination.

8 Exempt. Any individuals who do not deal (i.e. negotiate
9 interest rates, loan programs, offer loan locks, loan
10 commitments) directly with borrowers. This includes persons
11 who complete incidental services in arranging or procuring a
12 mortgage loan, including administrative staff wherein their
13 primary function is the verification of data provided by the
14 borrower, assembly of documents and coordination of third party
15 service such as ordering an appraisal, title report or credit
16 reports.

17 Anyone who deals directly with a consumer and reviews,
18 analyzes, evaluates a proposed borrower's financial statements,
19 income, property characteristics and credit history should
20 obtain a license.

21 Licensing Requirements

22 To obtain a state license to become a residential mortgage loan
23 originator, the following concepts should be adopted:

24 1. A written application for licensure must be
25 required. The application should require an attestation by the

. 145848. 1ai

underscored material = new
[bracketed material] = delete

1 applicant as to the applicant's experience and knowledge of the
2 mortgage industry.

3 2. The applicant should submit to a background
4 investigation of, at a minimum, criminal records, and
5 employment history.

6 1. No individual should be licensed who has had a
7 license, or the equivalent to practice any
8 profession or occupation revoked, suspended or
9 otherwise who has acted beyond legal limits.

10 2. No person should be licensed who has been convicted of
11 acts against society that could be deemed 'moral
12 turpitude'. Such acts where licenses should be denied
13 must include duties owed by licensees to the public
14 including acts contrary to justice and the doctrine of
15 "fair dealing", honesty, principle or good business
16 morals. This includes, but is not limited to theft,
17 extortion, use of the mail to obtain property under false
18 pretenses, tax evasion and the sale of, or the intent to
19 sell controlled substances.

20 3. The licenses should provide evidence that they have
21 managed their business and personal financial affairs with
22 care and diligence.

23 4. convicted felon

24 3. A first time Residential Mortgage Loan Officer Licensee
25 Applicant shall provide a certificate of satisfactory

. 145848. 1ai

underscored material = new
[bracketed material] = delete

1 completion of a course of study, as defined by the state,
2 consisting of the subjects listed below.

3 4. A Principal Mortgage Lending Entity/Owner/Responsible party
4 Licensee Applicant shall provide a certificate of satisfactory
5 completion of a course of study, as defined by the state,
6 consisting of course work from the subjects listed below.

7 5. A Licensee Applicant shall pass an examination of the
8 applicant's knowledge after items 1-4 above have been
9 completed.

10 6. Licenses shall be valid for a two-year period. Upon
11 expiration of the two-year period, the licensee should submit
12 an application for renewal to the appropriate licensing
13 authority. The renewal application should, at a minimum,
14 include evidence of completion of continuing education courses,
15 as described below.¹

16 7. The licensing authority should have the authority to
17 request additional information from the Licensee Applicant to
18 support statements made on the application or dispute matters
19 discovered through investigation.

20 8. All initial applicants shall submit for a background check,
21 which shall be forwarded to the local Department of Public
22 Safety and/or FBI for a records check.

23 _____
24 ¹Based upon the experience of many mortgage brokers, the
25 educational requirements should be greater than that required of
Residential Loan Officers

underscored material = new
[bracketed material] = delete

1 9. The licensee Applicant shall pay sufficient fees to pay for
2 Licensing Authorities' costs of processing the license
3 application and investigations. \$200.00 bi-annual.

4 10. Upon receipt of a Residential Mortgage Loan Officers
5 license, the licensee shall immediately deliver the license to
6 his/her employing broker. Upon termination of employment of a
7 Residential Mortgage Loan Officer, the license shall be
8 transferred to a new employing broker and the regulating
9 authority should be notified. If the Residential Mortgage Loan
10 Officer does not have a new employing broker, the license shall
11 be returned to the Licensing Authority with an explanation or
12 the reasons for termination.

13 Grandfathered Persons

14 Every Residential Mortgage Loan Officer, currently registered,
15 licensed or otherwise employed in the mortgage industry
16 immediately preceding enactment of this initiative shall be
17 permitted to continue employment as a Residential Mortgage Loan
18 Officer. Each current originator shall be required to meet all
19 of the necessary elements of licensure at the next renewal
20 period specified by state law.

21 Unless provided for in state law, every Principal Residential
22 Mortgage Lending Entity or Owner, currently licensed
23 immediately preceding enactment of this initiative shall be
24 permitted to maintain their license and position. Each current
25 Principal Residential Mortgage Lending Entity/Owner shall be

. 145848. 1ai

underscored material = new
[bracketed material] = del ete

1 required to meet all of the necessary elements of licensure at
2 the next renewal period specified in the state law.

3 Pre-Licensing Education

4 All persons making an initial application for licensing must:

- 5 a) Attend educational courses, determined by the state, when
6 applying for a Residential Loan Officer license;
7 b) Attend educational courses, determined by the state, when
8 applying for a Principal Mortgage Owner license:
9 c) Pass a test of core competencies;
10 d) Receive a certificate of completion from the school or
11 organization that provided courses.

12 Each state or Licensing Authority should, with the assistance
13 of the local mortgage professionals, established review and
14 approve curriculum sufficient to establish a baseline of
15 knowledge for licenses.

16 Recommended Course Curriculum Pre-licensor course curriculum
17 may include;

- 18 a. Federal Lending Laws;
19 b. Ethics, Diversify and Sensitivity
20 c. Practices of Residential Lending
21 d. Real Estate and Mortgage Mathematics;
22 e. Escrow Procedures, Title Insurance and Loa Settlement;
23 f. Appraisals and Land Survey;
24 g. Loan Processing and Loa Underwriting Process;
25 h. Secondary Mortgage Market;

- 1 i. Loan Default and Foreclosure Law;
- 2 j. State Statues and Rules.

3 Continuing Education Requirements

4 Every resident mortgage originators, whether a Residential Loan
5 Officer of Principal Mortgage Owner, shall, upon renewal of an
6 existing license, submit proof of satisfactory completion of a
7 course of study.

8 Subjects may include:

- 9 a. Federal and State Lending Law;
- 10 b. Local Rules and Regulations;
- 11 c. Ethics and Professional Standards;
- 12 d. General Real Estate or General Financial Studies;
- 13 e. Product Update;
- 14 f. Personal Development;
- 15 g. Diversify Training.

16 Continuing education courses may be offered through classroom
17 instruction, electronic transmission, or distance learning.

18 Quaffing hours may be obtained by attendance at a locally
19 chartered real estate or mortgage business school, accredited
20 college, university or community college, or vocational school
21 or other institution approved by the state licensing agency.

22 The license should receive a completion certificate that such
23 hours have been successfully completed. Licensees shall submit
24 the appropriate certificate(s) with the license renewal form "